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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/643,138	08/21/2000	Jose L. Boyer	03678.0064.00US00	8780

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EXAMINER
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OWENS JR, HOWARD V

ART UNIT	PAPER NUMBER
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1623

DATE MAILED: 07/02/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/643,138

Applicant(s)

BOYER ET AL.

Examiner

Howard V Owens

Art Unit

1623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 6) ☐ Other: \_\_\_\_\_

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### **DETAILED ACTION**

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

#### **Specification**

The Abstract of the Disclosure is objected to because of the use of the word "novel" to describe the compounds of the invention. Applicant is reminded of the proper content of an Abstract of the Disclosure. The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art. Where applicable, the abstract should include the following: If a chemical compound, its identity and use. Appropriate correction is required. See M.P.E.P. § 608.01(b).

#### **Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 2 are rejected under 35 U.S.C. § 102(b) as being anticipated Kim et al., J. Biol. Chem. Vol. 269(9), pp. 6471-7 or Yerxa et al., U.S. 6,323,187.

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Claims 1 and 2 are drawn to purine/pyrimidine tri and tetraphosphate analogs. Kim anticipates the claims in the instance wherein the compounds are triphosphates and the A= hydrogen (as described by the variable "M").

Yerxa anticipates the claims in the instance wherein the compounds are tetraphosphates and the A is equal to a nucleoside residue.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 1-34 are rejected under 35 U.S.C. § 103 as being unpatentable over Yerxa et al., U.S. 6,323,187 in combination with Kim et al., J. Biol. Chem. Vol. 269(9), pp. 6471-7.

Claims 1 and 2 are drawn to purine/pyrimidine tri and tetraphosphate analogs. Dependent claims 3-34 are drawn to the treatment of various diseases associated with platelet aggregation with the compounds of the invention.

Claims 1 and 2 are rejected under 35 U.S.C. § 102(b) as being anticipated Kim et al., J. Biol. Chem. Vol. 269(9), pp. 6471-7 or Yerxa et al., U.S. 6,323,187.

Yerxa teaches the tetraphosphate compounds of the invention when "A" is equal to a nucleoside residue. Yerxa also teaches that these compounds are therapeutic compounds that are selective agonists of the P2Y2 and/or P2Y4 purinergic receptor. Yerxa however does not teach all of the diseases associated with the

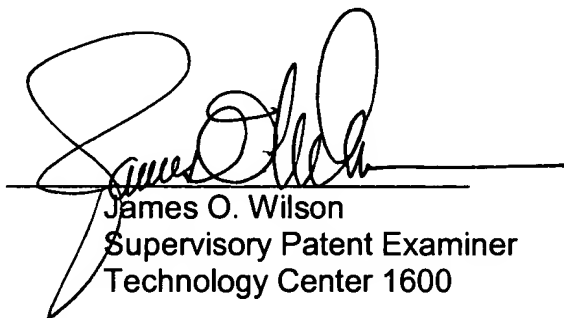
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treatment of platelet aggregation. Kim teaches that those agonists of P2Y2 and/or P2Y4 purinergic receptors inhibit or modulate platelet aggregation which adequately bridges the nexus between the prior art and the invention as claimed.

It would have been *prima facie* obvious to a person of ordinary skill in the art at the time the invention was made to use the compounds of the invention to treat various diseases associated with platelet aggregation.

A person of ordinary skill in the art would have been motivated to use these compounds to treat platelet aggregation given the recognition in the prior art that the compounds are selective agonists of the P2Y2 and/or P2Y4 purinergic receptor wherein inhibition of platelet aggregation is conferred through these receptor agonists.

Howard V. Owens  
Patent Examiner  
Art Unit 1623



James O. Wilson  
Supervisory Patent Examiner  
Technology Center 1600

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Howard Owens whose telephone number is (703) 306-4538 . The examiner can normally be reached on Mon.-Fri. from 8:30 a.m. to 5 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the Supervisory Patent Examiner signing this action, James O. Wilson can be reached on (703) 308-4624 . The fax phone number for this Group is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1235.